



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

February 21, 1991

Mr. Fred S. Brinkley, Jr.
Executive Director/Secretary
Texas State Board of Pharmacy
8505 Cross Park Drive, Suite 110
Austin, Texas 78754-4594

OR91-100

Dear Mr. Brinkley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11570.

We have considered two exceptions you claimed, specifically, sections 3(a)(1) and 3(a)(11), and have reviewed the documents at issue. With regard to the request for information in the employee's personnel file, we agree that you may withhold pursuant to section 3(a)(1) the documents that relate to the employee's personal investment, insurance, and social security decisions. See Open Records Decision Nos. 545 (1990); 373 (1983). But see V.T.C.S. art. 6252-17a, § 6 (salary of any employee is public information). We also agree that the personnel evaluations prepared by the employee's supervisors may be withheld pursuant to section 3(a)(11). See Open Records Decision No. 466 (1987).

The documents submitted for our review include copies of marked telephone bills, travel vouchers and accompanying receipts and separate gasoline credit card receipts. We understand that you desire to withhold only the marked material. We are also advised that the marked material relates to investigations that are still active and continuing and that were conducted by an employee of the board who is both a board investigator and a peace officer.

Section 17(q) of the Texas Pharmacy Act, article 4542a-1, V.T.C.S., states that the investigative files of the board are not considered open records for the purposes of the Open Records Act. Our review of these documents reveals that disclosure of the marked material does relate to the gathering of facts and the assessment of the validity of the complaints against the licensees; they thus may be withheld pursuant to section 17(q) of the Pharmacy Act and section 3(a)(1) of the Open Records Act, which excepts from

disclosure information deemed confidential by statute. See Open Records Decision Nos. 493 (1988); 474 (1987).

We are advised that you have released to the requestor copies of the agency's written policies that he had requested. We also have been informed that the requestor is not seeking records relating to personal expenses for which the agency did not reimburse the employee. Thus, such records are not at issue here.

Since previous determinations of this office, Open Records Decision Nos. 545 (1990), 493 (1988), 474, 466 (1987), and 373 (1983), copies of which are enclosed, resolve your request, the board may withhold the requested information as indicated above.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-100.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lcd

Ref.: ID# 11570, 11649

Enclosure: Open Records Decision Nos. 545, 493, 474, 466, 373; Documents Sent.

cc: Mr. Robert J. Thomas
Attorney at Law
P. O. Box 2441
Spring, Texas 77383